

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I HEREBY DECLARE:

THAT my residence, post office address, and citizenship are as stated below next to my name;

THAT I believe I am the original, first, and sole inventor (if only one inventor is named below) or an original, first, and joint inventor (if plural inventors are named below or in an attached Declaration) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**PORTABLE DIAGNOSTIC APPARATUS FOR COMPUTER COMPONENTS AND
SYSTEMS AND METHOD OF USING SAME**

(Attorney Docket No. 7719-114)

the specification of which (check one)

 X is attached hereto.

 was filed on as United States Application Number or
PCT International Application Number and was
amended on (if applicable).

THAT I do not know and do not believe that the same invention was ever known or used by others in the United States of America, or was patented or described in any printed publication in any country, before I (we) invented it;

THAT I do not know and do not believe that the same invention was patented or described in any printed publication in any country, or in public use or on sale in the United States of America, for more than one year prior to the filing date of this United States application;

THAT I do not know and do not believe that the same invention was first patented or made the subject of an inventor's certificate that issued in any country foreign to the United States of America before the filing date of this United States application if the foreign application was filed by me (us), or by my (our) legal representatives or assigns, more than twelve months (six months for design patents) prior to the filing date of this United States application;

THAT I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above;

THAT I believe that the above-identified specification contains a written description of the invention, and of the manner and process of making and using it, in

such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention, and sets forth the best mode contemplated by me of carrying out the invention; and

THAT I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I HEREBY CLAIM foreign priority benefits under Title 35, United States Code §119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number	Country	Foreign Filing Date	Priority Claimed?	Certified Copy Attached ?

I HEREBY CLAIM the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

U.S. Provisional Application Number	Filing Date
60/411,850	09-18-2002

I HEREBY CLAIM the benefit under Title 35, United States Code, §120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56

which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Application Number	Parent Filing Date	Parent Patent Number
10/449,799		May 29, 2003	
10/448,691		May 29, 2003	
10/449,608		May 29, 2003	
10/448,508		May 29, 2003	

I HEREBY APPOINT the following registered attorneys and agents of the law firm of DUCKOR SPRADLING & METZGER:

Bernard L. Kleinke,
Registration No. 22.123

to have full power to prosecute this application and any continuations, divisions, reissues, and reexaminations thereof, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

I request that all correspondence be directed to:

Bernard L. Kleinke
DUCKOR SPRADLING & METZGER
Customer Number: 36412



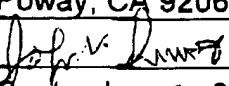
36412
PATENT TRADEMARK OFFICE

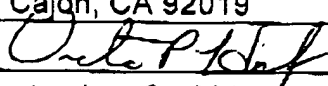
Telephone: (619) 231-3666
Facsimile: (619) 231-6629

I UNDERSTAND AND AGREE THAT the foregoing attorneys and agents appointed by me to prosecute this application do not personally represent me or my legal interests, but instead represent the interests of the legal owner(s) of the invention described in this application.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Atty. Dkt. No. 7719.115

Name of first inventor	John V. Smith
Residence	Poway, CA
Citizenship	US
Post Office Address	14072 Blue Ridge Trail Poway, CA 92064
Inventor's signature	
Date	September 5, 2003

Name of second inventor	Victor P. Hester
Residence	El Cajon, CA
Citizenship	US
Post Office Address	2162 Shire Drive El Cajon, CA 92019
Inventor's signature	
Date	September 5, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Smith et al.


Title: PORTABLE DIAGNOSTIC
APPARATUS FOR COMPUTER
COMPONENTS AND SYSTEMS
AND METHOD OF USING SAME

Appl. No.:

Filing Date:

Examiner:

Art Unit:

CERTIFICATE OF EXPRESS MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: Commissioner for Patents, Alexandria, VA 20231.	
EV 095246854 US (Express Mail Label Number)	September 5, 2003 (Date of Deposit)
BERNARD L. KLEINKE (Printed Name)	
 (Signature)	

**DECLARATION OF BERNARD L. KLEINKE IN SUPPORT OF THE
PETITION TO MAKE SPECIAL UNDER RULE 1.102(d)**

MAIL STOP – Patent Application
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

I, Bernard L. Kleinke, declare as follows:

1. I am a member of the firm of Duckor Spradling & Metzger and attorney for the Applicant in the above-identified patent application. I am a member of the bar of the State of California and a registered Patent Attorney (Reg. No. 22,123). I make this Declaration in support of Applicant's Petition to Make Special for the above-identified application.
2. The subject matter of the above-identified application relates to a portable diagnostic apparatus for computer components and systems and method of using same.

3. To determine the patentability of the claims as submitted in the application, a thorough and careful search was performed using an electronic database having the full text of issued patents extending back to 1976, or published applications since March 15, 2001 (PGPUB Production Database). The search was conducted using the following search terms: "rack computer", "computer monitor", "computer diagnostic monitoring system", "diagnostic computer monitoring system", "computer diagnostic monitoring apparatus", "computer diagnostic apparatus", "rack mounted computer", "diagnostic monitoring", "diagnostic apparatus", and "terminal-computer".

4. The pre-examination search uncovered 3 pertinent U.S. patents, which are discussed in detail on an attachment herewith. It is believed that none of the below-referenced documents disclose or even suggest a system or method for rack mounting computer products, as disclosed or claimed in the above-identified application.

5. I further declare that all statements made herein of my own personal knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Date: September 5, 2003

Respectfully submitted,

DUCKOR SPRADLING & METZGER
401 West A Street, Suite 2400
San Diego, CA 92101-7915
Telephone: (619) 291-3666
Facsimile: (619) 231-6629

By 

Bernard L. Kleinke
Attorney for Applicant
Registration No. 22,123